

AMENDMENT UNDER 37 C.F.R. § 1.111
Appln. No. 10/019,560
Docket No. Q67729

REMARKS

Claims 1-14 are all the claims pending in the application. Claims 1 and 9 are independent claims.

New dependent claims 13 and 14 have been added in order to provide additional claim coverage. These claims are supported in the original specification at least by the discussion of the *non-limiting* embodiment on pages 2, 4, and 5.

Allowable Subject Matter

Applicants note with appreciation that the Examiner has indicated that claim 12 would be allowable if rewritten in independent form including all of the recitations of the base claim 9 and rewritten to overcome the 35 U.S.C. § 112 rejection. However, Applicants hold in abeyance the rewriting of claim 12 until the Examiner has had the chance to consider the amendments and remarks below with respect to claim 9.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-4, 6, 7, 9, 10, and 11 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Olson (US 6,032,818). Claim 5 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Olson in view of Bonerb (US 5,344,048). Claim 8 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Olson in view of Sharples (US 4,955,512).

With respect to independent claim 1, Applicants have amended the claim to recite that said flexible container is a generally cylindrical shape, and the restraining member comprises at least two closure lines extending essentially from a top of the container to the bottom of the

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container, on each side of a longitudinal center line. This amendment is supported at least by the *non-limiting* embodiment discussed at pages 1, 2, 4, and 5 and Figs. 1 & 3-6 of the original specification. It is noted that the container of the invention is introduced into a rigid container of bottle-like shape through a neck. Therefore the flexible container is a cylindrical shape.

Applicants respectfully request the Examiner to withdraw the rejection in view of this amendment.

According to the rejection, it is the Examiner's position that the cover 45 corresponds to the recited "partitioning means." However, Olsson does not teach or suggest the invention of amended claim 1. For example, Olson merely discloses a rectangular bag. See Olsen at Figs. 9a-9f. For rectangular bags and outer containers, contact of the bag with the corner position is a problem. Therefore, Olson's convoluted solution to this problem is the tube-shaped cover 45.

In contrast, the claimed flexible container is a cylindrical shape, rather than the rectangular shape of Olson. In addition, according to the invention, because the restraining member is two closure lines extending essentially from a top to bottom of the container (e.g., glue lines, fold lines, weld lines, etc.). This allows a central compartment bounded by the closure lines is filled first, which can provide an advantageous filling procedure.

For example, the sides of the flexible container can stay free from the vertical walls of the rigid outer container until the fluid reaches a predetermined pressure and the side areas are released and filled so that they become adjacent to the walls of the container.

The claimed flexible container is not obvious in view of Olson's bag liner. Instead, as seen in Olson's Figs. 9a-9e, the bag first fills at positions adjacent to the walls of the box shaped

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container. Specifically, in Olson, the container is first filled by the bag material in close contact with the lower wall of the box-shaped outer container 11, and then the flexible container slides along the bottom wall of the box-shaped container 11 (9c) and then slides along the side wall (Figs. 9d, 9e).

Therefore, Applicants respectfully request the Examiner to withdraw the rejection of independent claim 1.

In addition, Applicants have amended independent method claim 9 in a manner similar to independent claim 1. Applicants respectfully request the Examiner to withdraw the rejection of independent claim 9 at least for the reasons discussed above with respect to claim 1.

Finally, Applicants respectfully request the Examiner to withdraw the rejections of dependent claims 2-4, 6, 7, 10, and 11 at least because of their dependency from one of claims 1 and 9.

Furthermore, Applicants respectfully request the Examiner to withdraw the rejections of dependent claim 5 at least because of its dependency from claim 1 and because Bonerb, which was cited by the Examiner as showing adhesive tape, does not cure the deficiencies in Olson discussed above.

Applicants also respectfully request the Examiner to withdraw the rejections of dependent claim 8 at least because of its dependency from claim 1 and because Sharples, which was cited by the Examiner as showing a shut off valve, does not cure the deficiencies in Olson discussed above.

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New Claims

In addition, Applicants respectfully request the Examiner to allow new claims 13 and 14 at least because of their dependency from one of claims 1 and 9.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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